NOTIFICATION.667

No. L.D. 2231—Legis. 4-51-93, dated Bangalore, 29th February 1952.

Ordered that the Foreign Exchange Regulation (Amendment) Act, 1952 (Central Act No. VIII of 1952) published in the *Gazette of India*, Part II, Section 1, dated the 25th February 1952, be republished in the *Mysore Gazette*, for general information.

By Order of His Highness the Maharaja,

N. R. JAYA RAO,
Legal Remembrancer and
Secretary to Government,
Law Department.

GOVERNMENT OF INDIA.

MINISTRY OF LAW.

Received Assent on 23rd February 1952.,

THE FOREIGN EXCHANGE REGULATION (AMENDMENT) ACT, 1952 (VIII OF 1952).

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ACT

further to amend the Foreign Exchange Regulation Act, 1947.

BE it enacted by Parliament as follows :—

1. Short title.—This Act may be called the Foreign Exchange Regulation (Amendment) Act, 1952.

2. Amendment of section 1, Act VII of 1947.—In section 1 of the Foreign Exchange Regulation Act, 1947 (hereinafter referred to as the principal Act), for sub-section (4), the following sub-section shall be substituted, namely :—

"It shall remain in force up to the thirty-first day of December, 1957."

3. Amendment of section 2, Act VII of 1947.—In section 2 of the principal Act, clause (*o*) shall be omitted.

4. Amendment of section 8, Act VII of 1947.—In section 8 of the principal Act, sub-section (3) shall be omitted.

5. Amendment of section 12, Act VII of 1947.—In sub-section (1) of section 12 of the principal Act, for the words "prohibit the export" the words "prohibit the taking or sending out by land, sea or air (hereafter in this section referred to as export)" shall be substituted.

6. Substitution of new section for section 18 in Act VII of 1947.—For section 18 of the principal Act, the following section shall be substituted, namely :—

"18. *Certain provisions as to companies.*—(1) Where there is served on any person resident in the States a notice in writing that

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the Central Government or the Reserve Bank wishes any such requirements as are hereinafter mentioned to be complied with by any such company as is specified in *Explanation I* [hereafter in this sub-section and in sub-section (2) referred to as a foreign company] and that person can by doing or refraining from doing any act—

(*a*) cause the foreign company to comply with any of the requirements, or

(*b*) remove any obstacle to the foreign company complying with any of the requirements, or

(*c*) render it in any respect more probable that the foreign company will comply with any of the requirements,

then, except so far as permission to the contrary may be given by the Central Government or, as the case may be, by the Reserve Bank, that person shall do or, as the case may be, refrain from doing that act.

(2) The requirements with respect to which a notice under sub-section (1) may be given are as follows, that is to say, the foreign company shall—

(i) furnish to the Central Government or, as the case may be, to the Reserve Bank such particulars as to its assets and business as may be mentioned in the notice ;

(ii) sell or procure the sale to an authorised dealer of any foreign exchange mentioned in the notice, being foreign exchange which it is entitled to sell or of which it is entitled to procure the sale ;

(iii) declare and pay such dividend as may be mentioned in the notice ;

(iv) realise any of its assets mentioned in the notice in such manner as may be so mentioned ;

(v) refrain from selling or transferring or doing anything which affects its rights or powers in relation to any such instruments or securities as may be mentioned in the notice.

(3) Except with the general or special permission of the Reserve Bank, no person resident in the States shall do any act whereby a company which is controlled by persons resident in India ceases to be so controlled.

(4) Except with the general or special permission of the Reserve Bank, no person resident in the States shall lend any money either to any company (other than a banking company) which is controlled directly or indirectly by persons resident outside India elsewhere than in the territories notified in this behalf by the Reserve Bank or to any such person.

Explanation I.—The companies referred to in sub-section (1) are companies not incorporated under any law in force in the States in the case of which any of the following conditions is fulfilled :—

(*a*) that the company is by any means controlled (directly or indirectly) by persons resident in the States ; or

(*b*) that more than one-half of the sums which, on a liquidation thereof, would be receivable by holders of share or loan capital, would be receivable directly or indirectly by, or for the benefit of, persons resident in the States ; or

(*c*) that more than one-half of the assets which, on a liquidation thereof, would be available for distribution after the payment of creditors, would be receivable directly or indirectly by, or for the benefit of, persons resident in the States ; or

(*d*) that more than one-half—

(i) of the interest payable on its loans and loan capital, if any, or

(ii) of the dividends payable on its preference share capital, if any, or

(iii) of the dividends payable on its share capital, if any, not being preference share capital,

is receivable directly or indirectly by, or for the benefit of, persons resident in the States.

Explanation II.—Where the identity of the persons by whom, or for whose benefit, any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by any person resident in the States of a power vested in him in that behalf, the sum, assets, interest or dividends shall, for the purposes of this sub-section, be deemed to be receivable directly or indirectly by, or for the benefit of, persons resident in the States."

7. Amendment of section 19, Act VII of 1947.—For sub-sections (2) and (3) of section 19 of the principal Act, the following sub-section shall be substituted, namely :—

'(2) Where for the purposes of this Act the Central Government or the Reserve Bank considers it necessary or expedient to obtain and examine any information, book or other document in the possession of any person or which in the opinion of the Central Government or the Reserve Bank it is possible for such person to obtain and furnish, the Central Government or, as the case may be, the Reserve Bank may, by order in writing, require any such person (whose name shall be specified in the order) to furnish, or to obtain and furnish, to the Central Government or the Reserve Bank or any person specified in the order with such information, book or other document.

(3) If on a representation in writing, made by a person authorised in this behalf by the Central Government or the Reserve Bank, a District Magistrate, Sub-Divisional Magistrate, Presidency Magistrate or Magistrate of the first class, has reason to believe that a contravention of any of the provisions of this Act has been, or is being or is about to be committed in any place,

or that a person to whom an order under sub-section (2) of this section has been or might be addressed, will not or would not produce the information, book or other document,

or where such information, book or other document is not known to the Magistrate to be in the possession of any person,

or where the Magistrate considers that the purposes of any investigation or proceeding under this Act will be served by a general search or inspection,

he may issue a search warrant and the person to whom such warrant is directed may search or inspect in accordance therewith and seize any book or other document, and the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) relating to searches under that Code shall, so far as the same are applicable, apply to searches under this sub-section :

Provided that such warrant shall not be issued to any police officer below the rank of Sub-Inspector.

Explanation.—In this sub-section, "place" includes a house, building, tent, vehicle, vessel or aircraft.'

8. Amendment of section 23, Act VII of 1947.—In sub-section (3) of section 23 of the principal Act, after the words "or the Reserve Bank" the words "by a general or special order" shall be inserted.

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9. Insertion of new sections 23A and 23B in Act VII of 1947.—After section 23 of the principal Act, the following sections shall be inserted, namely :—

"23A. *Application of Sea Customs Act, 1878.*—Without prejudice to the provisions of section 23 or to any other provision contained in this Act, the restrictions imposed by sub-sections (1) and (2) of section 8, sub-section (1) of section 12 and clause (*a*) of sub-section (1) of section 13 shall be deemed to have been imposed under section 19 of the Sea Customs Act, 1878 (VIII of 1878), and all the provisions of that Act shall have effect accordingly, except that section 183 thereof shall have effect as if for the word 'shall therein the word 'may' were substituted.

23B. *Attempts.*—Whoever attempts to contravene any of the provisions of this Act or of any rule, direction or order made thereunder shall be deemed to have contravened that provision, rule, direction or order, as the case may be."

10. Amendment of section 24, Act VII of 1947.—Section 24 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely :—

"(2) Where any person is prosecuted for contravening the provision of sub-section (3) of section 4, the burden of proving that the foreign exchange acquired by such person has been used for the purpose for which permission to acquire it was granted shall be on him."

11. Insertion of new section 24A in Act VII of 1947.—After section 24 of the principal Act, the following section shall be inserted, namely :—

"24A. *Presumption as to documents in certain cases.*—Where any document is furnished by any person under sub-section (2) of section 19, or has been seized under sub-section (3) of that section from the custody or control of any person, and such document is tendered by the prosecution in evidence against him, the court shall, unless the contrary is proved by any such person, presume—

(*a*) the truth of the contents of such document ;

(*b*) that the signature and every other part of such document which purports to be in the handwriting of any particular person or which the court may reasonably assume to have been signed by, or to be in the handwriting of, any particular person, is in that person's handwriting, and in the case of a document stamped, executed or attested, that it was duly stamped and executed or attested by the person by whom it purports to have been so executed or attested."

12. Repeal of Ordinance X of 1951.—(1) The Foreign Exchange Regulation (Amendment) Ordinance, 1951 (X of 1951) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any power conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the day on which such thing was done or action was taken.

K. V. K. SUNDARAM,
Secretary to the Government of India.